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April 6, 2006

Mr. Bill Brattain
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Dear Mr. Brattain:

The following are general and specific comments on the Central Valley Regional Water Quality Control Board's (CVRWQCB's) Draft General Waste Discharge Requirements and Monitoring and Reporting Program for Discharges of Green Waste for Composting Within the Central Valley Region (Draft GWGO).

First, let me be clear that I am in support of the *concept* of a Draft GWGO. I have spent numerous hours encouraging the State Water Resources Control Board (SWRCB) to get their proposed Draft GWGO out into the field. I agree with the premise that there is a regulatory gray area since the dissolution of Waiver 96-031. What concerns me most about the CVRWQCB's Draft GWGO is the significant shift from the performance-based standards of either the 96-031 Waiver or the Draft GWGO prepared by the SWRCB, and the more prescriptive-based standards contained in the Central Valley Regional Water Quality Control Board's (CVRWQCB) Draft GWGO. Despite the fact that in many places in the Draft GWGO, you acknowledge that green material is a nonhazardous material with a significantly reduced potential to impact surface or groundwater, the standards proposed are in fact, not very far from the existing Title 27 requirements for landfills and other waste piles. Given the size of the CVRWQCB jurisdiction, a performance-based approach seems much more practical then a prescriptive one. In fact, I would prefer that the CVRWQCB cancel this proposed GWGO in favor of the SWRCB completing and promulgating their statewide GWGO.

The people of California clearly want both clean water and the landfill diversion and recycling provided by green material composting. The Draft GWGO must balance the needs of the fledgling green material composting industry with the desire to standardize and clarify the appropriate regulatory protections.

General Comments

1. No evidence of threat. The CVRWQCB has presented no evidence that the prescriptive standards proposed are commensurate with the potential level of risk. Particularly, there is no discussion or basis for the significant philosophical change from the performance

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based standards of the previous Waiver (96-031) and/or the proposed SWRCB Draft GWGO and the current prescriptive standards proposed in the CVRWQCB's Draft GWGO. For example, the two previous efforts relied on all-weather surfaces with positive drainage leading to a 25-year, 24-hour storm sized retention basin. The CVRWQCB Draft GWGO proposes lining all operations areas (regardless of annual rainfall amount, existing native surface, depth to groundwater, etc.), a minimum one percent slope, and a lined, 100-year storm sized, retention basin. Is there any evidence that the previous standards were insufficient to protect water quality?

2. Impact on Cost-effective Landfill Diversion. California jurisdictions (both in and outside of the Central Valley) rely on Central Valley-located green material composting facilities for cost-effective AB 939-mandated landfill diversion. Few cities (if any) will meet the 50 percent diversion requirement without diverting green material. The economics of green material composting are meager under the best conditions. The cost-impacts of the proposed Draft GWGO would impose a cost burden that would be significant to existing facilities and would serve as a significant disincentive to new facilities. Faced with increased costs to compost their green material, jurisdictions will face increased pressure to divert green material to alternative daily landfill cover. Currently using green material as alternative daily landfill cover receives the same "diversion credit" as does composting. Further, by imposing these prescriptive standards on the Central Valley Region only, you create an uneven playing field for the composters in the Central Valley region versus composters in other regions.

Specific Comments

Item 21 (Page 5). The exemption of discharges involving up to 500 cubic yards should be increased. One possibility is to synchronize with the "EA Notification" tier of the CIWMB regulations (14 CCR Title 14, Chapter 3.1, 17857.1 (a)). Facilities with less than 12,500 cubic yards onsite at any one time could be exempt from the Draft GWGO or could have reduced requirements, given the reduced threat that the volume restrictions enforce.

Item 25 (Page 5). What is the basis for exempting the use of green material for use as alternative daily cover at a landfill? Exempting this practice provides a significant financial disincentive to composting green material.

Item 42 (Page 8). I realize this is boilerplate language, but when is a public hearing scheduled to provide interested parties the opportunity to comment on the Draft GWGO? Will there be an

opportunity for an informal public hearing prior to this item's being formally considered by the Board?

Item A. 4 (Page 9). There is no evidence presented in the Draft GWGO that supports the need for a composite liner system (or other prescriptive standards listed in Discharge Specification No. B21 of the Draft GWGO).

Item A. 8, (Page 9). What is the rationale for the prohibition of liquid wastes? Many composting facilities around the country accept and compost various nonhazardous liquid wastes which provide an economic opportunity for the composter, supply needed moisture addition, and take an otherwise hard-to-manage waste and manage it in a responsible and practical way. Ironically, in most parts of the Central Valley Region, compost facilities are net water users, particularly in the dry months. Adding liquid wastes to green material compost is a cost-effective and creative recycling solution to these otherwise hard to manage wastes.

Item B. 3 (Page 10). What is the basis for the 1 percent slope? Previous proposals included performance-based "positive drainage" language rather than a prescriptive standard.

Item B. 4. (Page 10). There is no evidence presented which supports the need for a prohibition of direct ground surface contact for feedstock, active and/or finished compost, additives or amendments. Wouldn't it depend somewhat on the site-specific ground surface? Are all facilities that store finished compost going to be required to line their pads and have 100-year storm-sized retention basins?

Item B. 6 (b & c) (Page 10). Item B. 6. appears to be addressing run-on control systems for composting facilities. Why do subparts b and c discuss run-off control systems? Should this be located elsewhere in the document? What evidence did the CVRWQCB use to support the requirement of a 100-year annual return storm for the runoff retention basin? Waiver 96-031 required a 25-year, 24-hour storm sized basin. Also the most recent Waste Discharge Requirements for a green material composting facility permitted in the CVRWQCB (Order No. R5-2004-0130) only required a 25-year, 24-hour sized retention basin.

Item B. 8. (Page 10). Again, what evidence did the CVRWQCB use to justify the need for the listed liner systems? Composting sites with individual WDRs in the CVRWQCB do not appear to be held to this high a standard. What is the basis for the standard? Is there groundwater monitoring data that supports the need for this standard?

Item B. 12. (Page 11). Can you explain what jurisdiction the CVRWQCB has over odors from composting or storage of compostable materials?

Item B. 15. (Page 12). Can you explain the rationale for immediate collection of leachate if indeed the site, pads, and runoff retention basin is lined as per the standards contained in B. 21?

Item B. 21. (Page 12). Again, what evidence did the CVRWQCB use to justify the need for the listed liner systems?

Item E. 2. (Page 14). Unless the standards contained in the Draft GWGO are substantially changed, the compliance date of October 1, 2007 is unrealistic. The majority of the current operating green material composting sites do not meet the stringent standards contained in the Draft GWGO. Upgrading operating facilities is time consuming and disruptive to operations. In addition, many facilities will need to renegotiate municipal supply contracts in order to recover the cost of complying with the GWGO. More importantly perhaps, the required changes, for example, putting down 40 acres of steel-reinforced concrete (or other similar lining and grading projects) would necessitate a change in a given facility's Conditional Use Permit, CEQA approvals, and Solid Waste Facility Permit. This is also a time consuming process, and one that is not controlled by the compost facility but rather by the appropriate planning agency with jurisdiction.

MONITORING AND REPORTING PROGRAM

Item A. (Page 2 of Monitoring and Reporting Program). Section 41705 of the Health and Safety Code would appear to give primary jurisdiction over odors from composting facilities to the Local Enforcement Agencies. Can you explain the rationale and jurisdiction for daily odor monitoring and reporting to the CVRWQCB, as this would appear to be duplicative of existing CIWMB requirements?

Also is there any evidence presented or other rationale for the inclusion of Chlorophenoxy Herbicides in runoff or washwater basin monitoring?

Item B. (Page 2 of Monitoring and Reporting Program). What is the rationale for daily monitoring of potential leachate generation, if indeed any and all leachate is collected in a lined, 100-year storm sized retention basin?

Item C (Page 2 of Monitoring and Reporting Program). Items (d) through (g) do not seem to relate to water quality or Draft GWGO compliance. See previous comment regarding jurisdiction of odor at green waste composting facilities.

ATTACHMENT A - DEFINITIONS

Throughout the document, the term "waste" is used. The specific terms should be consistent with CIWMB definitions which eschew the word "waste' in favor of a term which more accurately connotes the value inherent in materials that are reused and/or composted (i.e., "agricultural waste" should be "agricultural material", "green waste" should be "green material", etc.).

INFORMATION SHEET

Page 2. The presented stormwater data is interesting, but out of context, and perhaps reveals less than is hoped. Was this facility in compliance with its NPDES permit? Were there site-specific conditions that led to the results? What feedstocks, in addition to green material, were accepted at this facility? What stormwater controls were or were not in place? Why wasn't there a stormwater retention basin for this facility? Where were the stormwater samples taken from? Are there other contributing factors that may have led to the presented results (i.e., other non-green material contributing sources upstream)?

Page 3, third paragraph. Has the CVRWQCB done any economic analysis to justify the statement that "...this general Order provides a streamlined, low-cost means of regulating these similar discharges"? Is there a cost-effectiveness threshold applied to the cost of implementing the various aspects of the General Order relative to the assumed improvement in surface and/or groundwater?

Given the complexities of this proposed General Order and the size of the CVRWQCB jurisdiction, it would seem appropriate to have several public hearings (at different venues) to allow the CVRWQCB staff to receive input from potentially affected parties.

I look forward to discussing these issues with you at your convenience.

Sincerely,

Matthew Cotton